

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**TO:** Nathan Clay and Mark A. Tejada

**FROM:** Legislative Council Staff and Office of Legislative Legal Services

**DATE:** May 2, 2017

**SUBJECT:** Proposed initiative measure 2017-2018 #34, concerning Free College for Colorado

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

### Purpose

The major purpose of the proposed initiative appears to be to create a scholarship program for qualified Colorado citizens that pays for tuition and certain costs associated with attending a Colorado community college or public university to earn a degree up to a bachelor's degree.

## **Substantive Comments and Questions**

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5) of the Colorado Constitution requires that the text of a proposed constitutional amendment or initiated law be submitted to our offices. The current proposal appears to be an outline of the proposal rather than the text. Would you consider submitting the text that you would like to appear in the Colorado Constitution or the Colorado Revised Statutes?
2. Article V, section 1 (8) of the Colorado Constitution requires the following enacting clause for all initiated measures: "Be it Enacted by the People of the State of Colorado". To comply with this constitutional requirement, this phrase should be added to the beginning of the proposed initiative.
3. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
4. What will be the effective date of the proposed initiative?
5. Under section 1-40-105.5, Colorado Revised Statutes, the director of research of the legislative council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.
  - a. Will you submit the initiative to the Title Board? If so, when do you intend to do so?
  - b. Are you submitting a fiscal impact estimate today? If not, do you plan to submit an estimate in the future, and if so, when do you intend to do so?
  - c. To ensure that there is time for consideration, you are strongly encouraged to submit your estimate, if any, at least 12 days before the measure is scheduled for a Title Board hearing. The estimate should be submitted to the legislative council staff at [BallotImpactEstimates.ga@state.co.us](mailto:BallotImpactEstimates.ga@state.co.us).
6. Could a student use a scholarship to attend a local district college, a state college, or an area technical college?
7. Who will implement the program?

- a. The community colleges or public universities?
  - b. The Department of Higher Education?
- 8. With respect to the requirement that graduates stay in Colorado for the same number of years they received funding, if a student receives the scholarship for four years, does he or she need to live in Colorado for four years after the date of graduation?
- 9. With respect to the requirement that a person must have been a citizen of Colorado for a year to qualify for the scholarship:
  - a. Is a citizen of Colorado the same as a Colorado resident entitled to receive in-state tuition under Colorado's tuition classification statutes?
  - b. Does the student just have to live in Colorado for a year to qualify? If the student came to the state as an out-of-state student and started attending college, would that student be eligible as a Colorado citizen after a year of college in Colorado?
  - c. Does a student have to be a United States citizen to qualify?
- 10. Could a student use a scholarship to obtain a certificate and not a degree?
- 11. How do you define "degree path", and how will you determine what it means to "stay on a degree path"? Can a student change degree paths?
- 12. What is the "GPA necessary to stay in school"?
- 13. Do all students qualify for tuition, lab fees, books, and equipment? Or are these costs only covered for students from families making less than \$130,000 per year?
- 14. Is there a cap on the number of students receiving a scholarship, or does everyone who meets the qualifications for the scholarship program receive a scholarship?
- 15. The scholarship covers "tuition, lab fees, and required books & equipment". Does it exclude other mandatory or optional student fees that are not "lab" fees?
- 16. The scholarship only pays for the remaining costs associated with going to school after applying for other financial aid, grants, and scholarships. Does this include federal financial aid, grants, or scholarships? Is a student required to apply for additional financial aid, grants, and scholarships to qualify for this scholarship?

17. How will the scholarship program be funded?
18. Do you have any other information related to the fiscal impact of the proposed initiative?

## Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Do you intend that the proposed initiative will amend the Colorado Revised Statutes or the Colorado Constitution?
2. Each constitutional or statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, if you are changing the constitution:

"In the constitution of the state of Colorado, **add** section \_\_\_ to article X as follows:".

If you are changing the Colorado Revised Statutes, should you, for example, intend to add a new article to title 23 of the Colorado Revised Statutes, you would include the following amending clause:

"In Colorado Revised Statutes, **add** article \_\_\_ to title 23 as follows:".

3. Before the amending clause, number each section, part, etc. that is being amended or added with a section number (e.g., SECTION 1., SECTION 2.). For example:

"**SECTION 1.** In the constitution of the state of Colorado, **add** article XXX as follows:".

4. Each section in the Colorado Revised Statutes and the Colorado Constitution has a headnote. Headnotes briefly describe the content of the section. A headnote should be added to each section of the proposed initiative and be in bold-face type.

5. The Colorado Revised Statutes are divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs as follows:

**X-X-XXXX. Headnote.** (1) Subsection.

(a) Paragraph

(I) Subparagraph

(A) Sub-subparagraph

(B) Sub-subparagraph

(II) Subparagraph

(b) Paragraph

(2) Subsection

(3) Subsection

6. It is standard drafting practice when referencing statutory sections to include the word "section" before the number. For example, "section 24-35-204.5."
7. It is standard drafting practice to use SMALL CAPITAL LETTERS [rather than ALL CAPS] to show the language being added to and stricken type, which appears as stricken type, to show language being removed from the Colorado Constitution or the Colorado Revised Statutes.
8. If the proposed initiative is amending the Colorado Revised Statutes, for purposes of the initiative, the word "shall" is defined in section 2-4-401 (13.7), Colorado Revised Statutes, and it means "that a person has a duty." The related word "must," which is defined in section 2-4-401 (6.5), Colorado Revised Statutes, "means that a person or thing is required to meet a condition for a consequence to apply." Furthermore, "'must' does not mean that a person has a duty."
9. Although the text of the proposed initiative should be in small capital letters, use an uppercase letter to indicate capitalization where appropriate. The following should be large-capitalized:
  - a. The first letter of the first word of each sentence;
  - b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
  - c. The first letter of proper names.